

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 1**  
**One Congress Street, Suite 1100**  
**Boston, Massachusetts, 02114**

**Date of Notice:** December 14, 2005

**Public Notice Number:** PN2005-0009

**Comment Period:** December 15, 2005 - January 13, 2006

**Action:** Notice of Proposed Assessment of Clean Water Act Class II Section 309(g)(2)(B) Administrative Penalty and Opportunity to Comment

Under Section 309(g)(2)(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(B), EPA is authorized to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. In a Class II proceeding under Section 309(g)(2)(B), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty of up to \$137,500 by EPA. Class II proceedings are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," at 40 C.F.R. Part 22 (Part 22).

The procedures by which the public may submit written comments on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in Part 22. Because this matter involves a CWA Section 309(g)(2)(B) proceeding which is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), the proposed consent agreement and final order resolving or settling this matter will not be issued until at least ten (10) days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).

Pursuant to Sections 309(g)(2)(B), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

**Name and Mailing Address of Respondent:** City of Fitchburg, Massachusetts, City Hall, 718 Main St., Fitchburg, Massachusetts, 01571.

**Name and Address of Facility or Site Addressed by Complaint:** City of Fitchburg, Massachusetts, City Hall, 718 Main St., Fitchburg, Massachusetts, 01571.

**Description of Business or Activity Conducted by the Respondent:** Municipality that owns and operates a small regulated municipal separate storm sewer system.

**Description of Violations alleged in Complaint:** The City of Fitchburg, Massachusetts, is authorized under National Pollutant Discharge Elimination System (“NPDES”) General Permit for Storm Water Discharges from Regulation Small Municipal Separate Storm Sewer Systems (“Permit”) to discharge storm water to the North Nashua River and six tributaries to the North Nashua River. The City has failed to submit annual reports required by the Permit due May 1, 2004 and May 1, 2005, thereby violating the terms and conditions of its Permit in violation of the Clean Water Act, Section 301(a), 33 U.S.C. § 1311(a) . Further, the City has failed to comply with an information request issued under the Clean Water Act requiring submission of the May 1, 2004 annual report, thereby violating the Clean Water Act, Section 308(a), 33 U.S.C. § 1318(a).

**Proposed penalty:** \$10,000

**Name of case:** In the Matter of: City of Fitchburg, Massachusetts

**Docket number:** CWA-01-2006-0006

**Date Filed with Regional Hearing Clerk:** December 12, 2005

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Rivera, Mail Code RAA, U.S. EPA, Region 1, One Congress Street, Suite 1100, Boston, Massachusetts 02114; (617) 918-1113.

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Acting Regional Hearing Clerk identified above. Unless otherwise noted, the public record

for the proceeding is located in the EPA Regional Office at One Congress Street, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to forty (40) days after issuance of this notice.